



AN COIMISIÚIN UM ACHOMHAIRC CHÁNACH
TAX APPEALS COMMISSION

191TACD2025

Between



Appellant

and

The Revenue Commissioners

Respondent

Determination

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Introduction

1. This is an appeal to the Tax Appeals Commission (“the Commission”) brought by [REDACTED] (“the Appellant”) under section 119(2) of the Value-Added Tax Consolidation Act 2010 (“the VATCA 2010”) and section 949I of the Taxes Consolidation Act 1997 (“the TCA 1997”), against a refusal by the Revenue Commissioners (“the Respondent”) to register the Appellant.
2. On 17 January 2025, the Commission notified the Appellant and the Respondent that the Commissioner intended to adjudicate on this appeal without a hearing and informed the parties that they could request a hearing within 21 days of that notification. Neither of the parties objected or requested a hearing of the appeal. Accordingly, this appeal is adjudicated without a hearing, under section 949U of the TCA 1997.

Background

3. In this appeal, the Appellant acted through its authorised agent.
4. The Appellant is a limited liability company which registered with the Companies Registration Office on [REDACTED].
5. On 17 June 2024, the Appellant applied to the Respondent for VAT registration. In its Statement of Case to the Commission, the Respondent stated that this was the Appellant’s fifth application for VAT registration. The Commissioner wishes to make clear that this appeal relates to the application of 17 June 2024.
6. On 19 July 2024, the Respondent refused VAT registration.
7. On 8 August 2024, the Appellant submitted correspondence between the Appellant and the Respondent to the Commission and on 16 August 2024, the Appellant submitted a Notice of Appeal to the Commission. On 3 October 2024, the Commission directed the parties to provide Statements of Case, under section 949Q of the TCA 1997. On 30 October 2024, the Respondent submitted a Statement of Case. On 5 and 27 November 2024, the Commission sent reminder emails to the Appellant. On 9 January 2025, the Appellant submitted a Statement of Case. On 6 February 2025, the Respondent submitted additional documentation to the Commission, which comprised the documentation submitted by the Appellant in support of its five applications for VAT registration. The Commissioner has considered all of the documentation submitted by the parties in this appeal.
8. On 3 January 2025, the Appellant stated to the Commission that the Commission had not provided the Appellant with a copy of the Respondent’s Statement of Case. The

Commissioner observes that on 4 November 2024, the Respondent informed the Commission that the Respondent had forwarded a copy of its Statement of Case to the Appellant by post and furthermore, that the Respondent's email to the Commission dated 30 October 2024, enclosing its Statement of Case, copied in the Appellant's representative. For completeness, the Commissioner notes that on 28 April 2025, the Respondent confirmed to the Commission that it had send a hard copy of its Statement of Case and associated documentation to the Appellant by post.

Legislation and Guidelines

9. Section 2 of the VATCA 2010 provides:

““taxable person” means a person who independently carries on a business in the Community or elsewhere;”

10. Section 5(1) of the VATCA 2010 provides:

“5. Persons who are, or who may become, accountable persons.

“(1) (a) Subject to paragraph (c), a taxable person who engages in the supply, within the State, of taxable goods or services shall be -

(i) an accountable person, and

(ii) accountable for and liable to pay the tax charged in respect of such supply.

(b) Subject to paragraph (c), in addition, the persons referred to in sections 9, 10, 12, 15, 17(1), 94(3), 108C, 109A and 91J(10) shall be accountable persons.

(c) A person not established in the State who supplies goods in the State only in the circumstances set out in section 10, or supplies a service in the State only in the circumstances set out in section 16(3), shall not be an accountable person.”

11. Section 65 of the VATCA 2010 provides:

“(1) The Revenue Commissioners shall set up and maintain a register of persons -

(a) who are, or who may become, accountable persons, or

(b) who are persons who dispose of goods or supply services which pursuant to section 22(3) or 28(4) or (5) are deemed to be supplied by an accountable person in the course or furtherance of his or her business.

(2) The Revenue Commissioners shall assign a registration number to each person registered in accordance with subsection (1).

(2A) The Revenue Commissioners may cancel the registration number which has been assigned to a person in accordance with subsection (2), where that person does not become or ceases to be an accountable person.

(3) (a) Every accountable person shall, within the period of 30 days beginning on the day on which the person first becomes an accountable person, furnish in writing to the Revenue Commissioners the particulars specified in regulations as being required for the purpose of registering the person for tax.

(b) Where an accountable person, when registering for tax, has furnished particulars specified in regulations referred to in paragraph (a) stating that he or she shall not engage in intra-Community trade, and the person subsequently engages in intra-Community trade, that person shall, within the period of 30 days beginning on the date on which he or she first engages in intra-Community trade, notify the Revenue Commissioners in writing of such an engagement.

(c) Where an accountable person notifies the Revenue Commissioners under paragraph (b) regarding his or her engagement in intra-Community trade, the Revenue Commissioners shall request that person to correct the particulars furnished as specified in regulations referred to in paragraph (a).

(d) In this subsection, 'intra-Community trade' means -

(i) the intra-Community supply of goods made by an accountable person and dispatched or transported from the State to a person registered for value-added tax in another Member State, or

(ii) the intra-Community acquisition of goods.

(4) Every person who disposes of goods or supplies services which pursuant to section 22(3) or 28(4) or (5) are deemed to be supplied by an accountable person in the course of his or her business shall, within 14 days of the disposal or the supply of a service, furnish in writing to the Revenue Commissioners the particulars specified in regulations as being required for the purpose of registering the person for tax."

Submissions

Appellant

12. In its Notice of Appeal, the Appellant submitted:

“ [REDACTED] multinational company with offices all over the world. At present we have 1 employee in Ireland/revenue far in excess of VAT threshold. Want to expand substantially in Ireland. Can’t do so without VAT number as potential clients question our commitment and credibility without VAT number. They tell us much smaller companies and our competitors have no problem getting VAT reg. In the short term we would like to employ 10 to 20 people with good salaries.

[REDACTED] ”

13. In its Statement of Case, the Appellant submitted:

“ [REDACTED] multinational company with [REDACTED] offices around the world. They wish to use Ireland as a hub for expansion in Europe. They will be providing substantial employment in the future in Ireland. Exactly the type of business that Enterprise Ireland wants to attract. They started off employing one person in Ireland, paid all the payroll taxes and invoices exceeded the VAT limit. They use my services as accountant and part-time director. I do not have the resources to go through all legislation. If Revenue don’t want this company to operate in Ireland, so be it. [REDACTED] they will operate out of the London office...”

Respondent

14. In its Statement of Case, the Respondent submitted (among other things):

“To be regarded as an accountable person in accordance with Section 5(1)(a) and to be entitled to register for VAT an applicant must be an accountable person for VAT purposes and involved in a vatable business activity in the state. To be granted a domestic VAT registration, applicants are required to provide substantive evidence of trade or capacity to trade at the time of submission.

[REDACTED] applied for VAT registration on the 17/06/2024. Applicant is requesting VAT registration for services being provided by [REDACTED]

This was the fifth application for Vat by this company and the third application for Vat from this Agent. The onus is on the applicant to provide sufficient documentary evidence in support of their application. Insufficient supporting documentation was

received with this application. Based on this information and information received to support previous applications, the decision was made that [REDACTED] could not be regarded as an accountable person in Ireland and the VAT registration application was disallowed accordingly.

This application was refused on the 27/06/24 as the applicant could not be regarded as an accountable person in Ireland in accordance with Section 5 (1) of the VAT Consolidation Act 2010.

- The company does not have an establishment in the Republic of Ireland. An Agent's office does not suffice, nor does a Serviced office or P.O. Box address.
- No additional evidence of trade, or substantive objective evidence of the applicant's capacity to trade in Ireland.

[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] a company registered with the CRO, is not deemed accountable for Vat purposes by Revenue for the following reasons.

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Should an applicant have any further substantiative information available it is open for an applicant to reapply for VAT registration.”

Material Facts

15. Having read the documentation submitted, the Commissioner makes the following findings of material fact:

15.1. The Appellant is a limited liability company which was registered with the Companies Registration Office on [REDACTED].

15.2. On 17 June 2024, the Appellant applied for VAT registration.

15.3. On 19 July 2024, the Respondent refused VAT registration.

15.4. On 16 August 2024, the Appellant submitted a Notice of Appeal to the Commission.

Analysis

16. This appeal relates to the Respondent's refusal to register the Appellant as an accountable person for VAT. In an appeal before the Commission, the burden of proof rests on the Appellant. In the High Court case of *Menolly Homes Ltd v Appeal Commissioners and another* [2010] IEHC 49, Charleton J. stated at paragraph 22 that:

“The burden of proof in this appeal process is, as in all taxation appeals, on the taxpayer. This is not a plenary civil hearing. It is an enquiry by the Appeal Commissioners as to whether the taxpayer has shown that the relevant tax is not payable”.

This position was recently confirmed by the Court of Appeal in *JSS, JSJ, TS, DS and PS v A Tax Appeal Commissioner* [2025] IECA 96.

Section 5 VATCA 2010

17. Section 5 of the VATCA 2010 provides that a taxable person who engages in the supply, within the State, of taxable goods or services shall be an accountable person. Section 65(1)(a) of the VATCA 2010 provides that the Respondent shall set up and maintain a register of persons who are, or who may become, accountable persons.
18. The provisions of Council Directive 2006/112/EC of 28 November 2006 (“the VAT Directive”) have been implemented by the VATCA 2010. Article 214 of the VAT Directive obliges a Member State to ensure the identification of every taxable person who within its territory carries out supplies of goods or services in respect of which VAT

is deductible. Article 9 of the VAT Directive provides that a taxable person is any person who independently carries on any economic activity, whatever the purpose of results of the activity.

19. The State complies with its obligations under Article 214 of the VAT Directive by way of the issuing of VAT registration numbers to “accountable persons”, pursuant to section 65 of the VATCA 2010. Section 65(1)(a) of the VATCA 2010 provides that the Respondent shall set up and maintain a register of persons who are, or who may become, “accountable persons”. Section 65(2) of the VATCA 2010 provides that the Respondent shall assign a registration number to each person registered in accordance with section 65(1) of the VATCA 2010.
20. An accountable person is defined in section 5 of the VATCA 2010 as “... *a taxable person who engages in the supply, within the State, of taxable goods or services.*” A taxable person is defined in section 2 of the VATCA 2010 as “*a person who independently carries on a business in the Community or elsewhere*”.
21. In this case, the Respondent refused VAT registration on the ground that the Appellant failed to demonstrate that the Appellant was an “accountable person” under section 5 of the VATCA 2010. The Respondent stated that it considered the following factors among others: the Appellant did not have an establishment in the State and an Agent's office does not suffice, nor does a serviced office or P.O. Box address; there was no additional evidence of trade, or substantive objective evidence of the Appellant's capacity to trade in Ireland.
22. Accordingly, the question arising relates to whether the Appellant is, or may become, an “accountable person” entitled to the assignation of a VAT number. In this regard, it is important to note that the burden of proof is on the Appellant. The Commissioner must therefore consider whether the Appellant has provided sufficient evidence to establish that it is, or may become, a “taxable person” who engages in the supply, within the State, of taxable goods or services.
23. The Commissioner acknowledges that the Appellant is a limited liability company which is registered in the State and has found this to be a material fact. However, the Commissioner does not consider that this of itself shows that the Appellant is, or may become, an accountable person.
24. In this appeal, the Appellant submitted the following documentation to the Commission: a Notice of Appeal, a Statement of Case, and correspondence between the Appellant and the Respondent from July and August 2024 via the Respondent's MyEnquiries

facility. The Commissioner observes that the Appellant did not provide any other documentation in support of its appeal. Nonetheless, the Respondent provided the Commission with the documentation submitted by the Appellant in support of its application for VAT registration dated 17 June 2024 and its previous applications.

25. Turning then to the documentation submitted in support of the Appellant's application of 17 June 2024, the Commissioner notes that in an email to the Respondent dated 9 July 2024, the Appellant's agent referred to having sent supporting documentation multiple times to the Respondent, and attached the following documents in support of its application: two invoices, an undated and unsigned note, and an email dated 10 June 2024. The Commissioner will now consider those documents, in addition to related documents from the Appellant's previous applications for VAT registration.

26. [REDACTED]

27. [REDACTED]

[REDACTED]

28. [REDACTED] The documentation submitted by the Respondent shows that a previous application by the Appellant for VAT registration contained an email from an agent of the Appellant to the Respondent dated 19 March 2024 which stated that the Appellant's business address was the address of the Appellant's agent, who "*manages the day to day activities of the company*". However, in this appeal, the Appellant made no submissions regarding the location from which the Appellant engages in the supply within the State of taxable goods or services, and adduced no evidence on the activities managed by the Appellant's agent or their relationship to the Appellant's supply of taxable goods or services within the State.

29. [REDACTED]
- [REDACTED] However, in this appeal, the Appellant provided no documentary evidence to substantiate the statements regarding potential business, such as any draft or final agreements or correspondence between the

Appellant and any such companies, which might objectively show that the Appellant is, or may become, an accountable person.

30. The Appellant's Statement of Case stated that the Appellant "*started off employing one person in Ireland, paid all the payroll taxes and invoices exceeded the VAT limit. They use my services as accountant and part-time director. I do not have the resources to go through all legislation. If Revenue don't want this company to operate in Ireland, so be it. [REDACTED] they will operate out of the London office*". The Commissioner considers that this submission failed to engage meaningfully with the subject matter of the appeal, notwithstanding that the burden of proof was on the Appellant.
31. Consequently, in light of the limited information contained in the Appellant's appeal submissions, and the documentation presented, the Commissioner is not satisfied that the Appellant has discharged the burden of proof to establish that the Appellant is, or may become, an accountable person for the purposes of section 5 of the VATCA 2010.
32. For the avoidance of doubt, the Commissioner wishes to emphasise to the Appellant that nothing in this determination precludes the Appellant from making a fresh application for VAT registration and submitting supporting documentation to demonstrate that the Appellant is, or may become, an accountable person.

Determination

33. For the reasons set out above, the Commissioner determines that the Appellant has not succeeded in showing that the Respondent was incorrect to refuse the Appellant's application for VAT registration of 17 June 2024.
34. This Appeal is determined in accordance with Part 40A of the TCA 1997 and in particular section 949AL and section 949U thereof. This determination contains full findings of fact and reasons for the determination, as required under section 949AJ(6) of the TCA 1997.

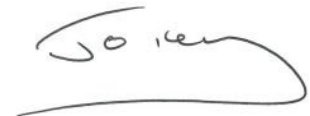
Notification

35. This determination complies with the notification requirements set out in section 949AJ of the TCA 1997, in particular section 949AJ(5) and section 949AJ(6) of the TCA 1997. For the avoidance of doubt, the parties are hereby notified of the determination under section 949AJ of the TCA 1997 and in particular the matters as required in section 949AJ(6) of the TCA 1997. This notification under section 949AJ of the TCA 1997 is being sent via digital email communication **only** (unless the Appellant opted for postal

communication and communicated that option to the Commission). The parties will not receive any other notification of this determination by any other methods of communication.

Appeal

36. Any party dissatisfied with the determination has a right of appeal on a point or points of law only within 42 days after the date of the notification of this determination in accordance with the provisions set out in section 949AP of the TCA 1997. The Commission has no discretion to accept any request to appeal the determination outside the statutory time limit.

A handwritten signature in black ink, appearing to read 'Jo Kenny', with a long horizontal flourish extending to the right.

Jo Kenny
Appeal Commissioner
28 May 2025